

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Sherald Anderson, #250152)	Civil Action No.: 4:16-cv-02462-JMC
)	
Plaintiff,)	
v.)	
)	ORDER
Warden Willie L. Eagleton (Official)	
Capacity), Corporal V. Lovin (Vernon),)	
Officer Doe Lucas, <i>In Their Individual</i>)	
<i>Capacities</i> ,)	
)	
Defendants.)	
_____)	

Plaintiff Sherald Anderson (“Plaintiff”), a prisoner at Evans Correctional Institution in the South Carolina Department of Corrections (“SCDC”) proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983 alleging Eighth and Fourteenth Amendment violations against Defendants Warden Willie L. Eagleton, Officer Corporal V. Lovin (Vernon) (“Officer Lovin”), and Officer Doe Lucas (“Officer Lucas”) (collectively “Defendants”). (ECF No. 1.) On September 20, 2017, the court denied Defendants’ Motion for Summary Judgment as to claims asserted against Officer Lovin and Officer Lucas. (ECF No. 87.) This matter is now before the court on Plaintiff’s Motion for Appointment of Counsel pursuant to 28 U.S.C. § 1915(e)(1). (ECF No. 92.)

Section 1915(e)(1) provides that “the court may request an attorney to represent any person unable to afford counsel.” *Id.* However, “there is no absolute right to appointment of counsel [absent]. . . ‘exceptional circumstances.’” *Hall v. Holsmith*, 340 F. App’x 944, 946 (4th Cir. 2009) (quoting *Miller v. Simmons*, 814 F.2d 962, 966 (4th Cir. 1987)); *see also Whisenant v. Yuam*, 739 F.2d 160, 163 (1984) (“The power to appoint is a discretionary one, but it is an abuse of discretion to decline to appoint counsel where the case of an indigent plaintiff presents

exceptional circumstances.”), *abrogated on other grounds by Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296 (1989). Exceptional circumstances exist where “it is apparent to the district court that a pro se litigant has a colorable claim but lacks the capacity to present it.” *Id.* at 163.

At this stage of the instant action, it has become clear that Plaintiff has a potentially meritorious claim which he is ill-equipped to litigate in a trial setting. Therefore, the court **GRANTS** Plaintiff’s Motion (ECF No. 92) and **APPOINTS** Attorney Lindsay Anne Joyner (“Attorney Joyner”) of Gallivan, White & Boyd, PA in Columbia, South Carolina as pro bono counsel to assist Plaintiff in this case and to represent him at trial. Attorney Joyner is ordered to contact Plaintiff, as soon as possible, and the Clerk shall enter a scheduling order to serve the purposes of mediation and the trial of this case.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

February 15, 2018
Columbia, South Carolina